

**STATEMENT**  
**before the**  
**Subcommittee on National Security, Emerging Threats and International**  
**Relations:**

***Combating Terrorism: Visas Still Vulnerable***  
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Mr. Chairman, Rep. Kucinich, and members of the Subcommittee, it is a privilege to appear before this subcommittee which has maintained a consistent focus on the visa process since 9/11 and acted as a force for its continuous improvement.

The GAO's report that you commissioned and are reviewing today, *Border Security: Strengthened Visa Process Would Benefit From Improvements in Staffing and Information Sharing*, contains important new recommendations relating to counterterrorism.

As you know, the work of my team on the 9/11 Commission staff was to provide research and recommendations concerning the tactics used by the 9/11 conspirators and some of their terrorist predecessors. These terrorists were able to obtain visas, enter, and remain in the United States through illegal use of legal entry channels, including the visa process.

Today I would like to build on the work of this subcommittee, the GAO, and the 9/11 Commission by highlighting the importance of some of the findings and recommendations that have been presented and by offering some additions.

I would summarize the GAO report's major findings as follows:

- The visa process must serve simultaneously as an anti-terrorism tool and as a facilitator of legitimate travel;
- Consulates today are better staffed for these purposes but are still understaffed in numbers, expertise, and experience levels;
- Counterterrorism tools are improved, but not optimal;
- Counter-fraud tools are improved, but not optimal;
- DHS' practical and even notional contribution to the visa process remains unclear; and
- The difficulty in using FBI criminal history (NCIC) files contributes to needless delays and perhaps undue expense in the visa process.

Each of these six points merits comment from a counterterrorism perspective.

1. The visa process as an anti-terrorism tool.

Since 9/11, we've understood that visa offices are crucial screening points for the *defensive* blocking of dangerous individuals. They are also, however, crucial

*offensively*, to help detect and counter terrorist operations, and to help counter the criminal infrastructure for illegal immigration which also contributes to terrorist mobility.

We live in an age where war is conducted, in part, through terrorism. National borders and their screening and access points must be regarded as critical components of offensive counterterrorism and the national security framework. Why? Because for terrorists they pose major obstacles to a critical terrorist function -- mobility.

All terrorist groups have to execute certain basic functions: making decisions, communicating internally and publicly, recruiting and training members, raising and distributing money, and moving people and material. Each of these facets of terrorist functioning offers a potential vulnerability.

Terrorist mobility – their need to move people – is equally important. When terrorists need to cross sovereign borders for *any* of their critical functions – communications, fundraising, recruiting, training, decision making -- their vulnerabilities and our opportunities for detecting them are greater.

These provide opportunities for designing new offensive and defensive measures. We can create new types of information based on them, use them as points of attack, or make them more difficult to carry out – especially secretly. Until terrorists are persuaded to desist, it is essential that we take effective advantage of every vulnerability.

Efforts today are being directed against terrorist leadership cadres, their communications (including Internet), finance, recruiting and training practices, and their actual and potential sanctuaries. Yet terrorist mobility has received significantly less attention than other dimensions of counterterrorism.

The GAO's report and the continuous improvements at Consular Affairs are critically important because the visa process is central to this new field of terrorist mobility. The visa office is one of the key locations where we have the opportunity to detect and intercept terrorists, or at least ensure that they leave a footprint.

This footprint can contribute to larger analytic efforts by consular offices among others. This information can become relevant later, when a new clue allows visa database information to be read as the record of terrorist passage. Put together with other information, it can reveal patterns and trends, and permit the design of new countermeasures. Because the screening and analytic architecture provided by the visa process captures revelatory information it is critically important to the new national security framework.

Visa offices, consulates, and embassies are also critical locations for crime control. Visa officers gain access to information that can lead to detecting false personas and fraudulent travel and supporting documents. When analyzed, this information will allow investigators, intelligence officials and diplomats to take actions against the *sources* of those illegal travel tactics.

Again, more is called for than the defensive blocking of individual criminals. Visa offices must take an increasingly significant role in crime control against illegal travel practices and organizations, by developing and sharing information to be used in law enforcement, intelligence, and diplomatic efforts against the sources of crime and criminal travel networks.

Very often these roles – counterterrorism and countercrime – overlap. The corrupt official who provides passports under the table can supply a terrorist as well as a narco-trafficker or family member.

The visa office's role in collecting, analyzing, and applying information about terrorist mobility and the organized criminal support for terrorist travel adds a new dimension of importance to the personnel and practices dedicated to the visa function.

## 2. Consulates today are better staffed but still understaffed in numbers, expertise, and experience levels.

Lack of trained personnel is unacceptable at a time when Consular Affairs has a critical national security role in countering terrorist mobility. The GAO reports significant growth in visa office staffing but also presents a troubling picture of a consular corps where over a quarter of supervisory positions are filled by entry-level officers, shortages are expected to remain until 2013, and language training deficiencies persist.

Consular offices are transit points which force terrorists to surface and confront governmental authorities. There must be people in place with experience in the region so that they are better able to read the clues presented by the people in front of them, and to devise systems to improve information gathering in cooperation with host governments and other parts of the US government.

The *Intelligence Reform and Terrorism Prevention Act* recommended additional consular officers. Until this occurs, there should be a process of establishing priorities for filling posts critical to national security.

## 3. Counterterrorism tools are improved, but not optimal.

Part of the good news in the GAO report is that the State Department is currently developing distance-learning courses in the areas of fraud prevention and

terrorist mobility. This is a good beginning, as long as there are mandatory requirements.

Once the courses are distributed, consular officers must determine whether they are adequate and what modifications are needed.

Two other points are important.

First, each post's officers must have a thorough understanding of the role of that geographic area in terrorist mobility and in the criminal infrastructure for illegal migration. This information needs to be updated continually as information and intelligence become available.

This probably means developing specialists at posts for this purpose. These specialists would have a career path that reflected their role, such as cross-service in the intelligence community and at ports of entry or other immigration and terrorism screening points contributing to counterterrorism.

At present, there appear to be at least 25 visa *fraud* investigators deployed but no specialists in terrorist mobility. Only specialized knowledge, however, allows visa fraud to be recognized as terrorist-related, and it does not appear that the ability to make such assessments is a mandatory requirement for any fraud investigators. Moreover, screening for terrorist indicators needs to be done during the visa application process, and not limited to special investigations.

Second, there still appears to be insufficient focus on travel and supporting documents as a source of terrorist indicators. As you know, the 9/11 Commission found that 15 of the 19 hijackers were potentially detectable as terrorists by documentary indicators.

The GAO found that only 48 percent of the visa chiefs surveyed had visited a classified website where such information might be displayed. Yet the GAO report says convincingly that many officers requested additional terrorism-related training. This apparently contradictory situation is likely a result of the classified computers being located at a distance from the understaffed visa issuing unit.

Information relating to documentary indicators is extensive, detailed, and ever-changing. Rather than simply making information available to whoever has time to study it, a better approach would be to automate it.

Currently, there is no electronic screening of passport books and accompanying documents for authenticity, adulteration, and terrorist and criminal indicators. Yet this capability exists and can be augmented further.

The goal should be electronic screening of foreign passports and identification documents using authentication, fraud, and terrorism-related algorithms. One

dimension of a terrorist mobility specialist's job should be expertise in documentary indicators, just as there are forensic passport specialists today who supply the nation with expertise on fraudulent passports generally. How to design and organize document screening in response to terrorism is a larger subject that requires more time than available today.

#### 4. Counter-fraud tools are improved, but not optimal.

Improved fraud detection through interviews with visa applicants and scrutiny of their supporting documentation, is a critical dimension of countering terrorist mobility as well as of crime control and of immigration management. From a counterterrorism perspective, it is important that once fraud of any kind is detected, there is an *additional* effort to detect any links to terrorism or to a criminal organization that may also support terrorism.

The GAO's report of new fraud investigators and the establishment of the Vulnerability Assessment Unit are important developments. They ought to lead to better fraud detection and deterrence which can bolster counterterrorism. The GAO also recommends standardized fraud reporting by posts.

For counterterrorism purposes, comprehensive information must also be developed about the nexus between fraudulent documents and individuals denied on terrorism or organized crime related grounds. This kind of information collection and analysis, available centrally and combined with similar information from ports of entry, is key to effective counterterrorism.

#### 5. The DHS' practical and even notional contribution to the visa process remains unclear.

According to the GAO, what consular officers are requesting are better counterterrorism tools and training, and what is needed also is an increased number of visa officers. The basic truth here is that DHS personnel from ICE or CBP do not have greater expertise in terrorist mobility than Consular Affairs officers.

The experiment of having DHS Visa Security Officers perform this role should end. Instead, there should be a focus on what functions DHS officers must fulfill overseas to counter terrorist mobility. While this goes beyond the subject matter of the GAO report, consideration should be given to building up at least two important roles to supplement the visa function overseas:

- *first*, a serious program to staff airport embarkation points with DHS officers (a combination of ICE and CBP) who can scrutinize travel documents in cooperation with foreign officials, and possess and have access to terrorist travel document expertise;
- *second*, the creation of a team of agents from ICE, Diplomatic Security Service (DSS), and FBI to assist foreign law enforcement organizations in

major cases against criminal travel facilitation organizations – human smugglers, major forgers, corrupt officials and travel agencies that support terrorist travel or large scale illegal migration.

6. The difficulty in using FBI criminal history (NCIC) files contributes to needless delays and perhaps undue expense in the visa process.

The efficiency, accuracy, and reliability of the visa process have an indirect as well as direct impact on the nation's security. The direct impact is in intercepting dangerous individuals and contributing to the information collection and analysis to preempt and deter them and the criminal travel infrastructure. The indirect impact is in fostering the ability of people to come to the U.S. and to become our friends and supporters, and hence to contribute to our economic security and strengthen our public diplomacy.

According to the GAO, there is at least one cause of disproportionate delay in the visa process – this is the link between visa offices and the FBI NCIC file information, which provides criminal records information on visa applicants. On the one hand, once there is a hit that indicates a record exists, the data necessary to visa determinations cannot be *extracted electronically*, which is what visa officers need. On the other hand, visa officers are not legally entitled to *review the entire files* to glean the necessary information. This is an easily made legislative fix.

It may be that the solution is to download the entire records into CLASS as is being discussed. Meanwhile, an option for addressing the immediate problem is to consider staffing visa offices not only with terrorist mobility specialists, but also with criminal investigators from Diplomatic Security. They have sufficient familiarity with criminal investigative processes to interpret NCIC file and make an additional queries with records centers. Broadening the responsibility of DS agents, increasing their numbers and familiarization with the visa issuance process, cross-training them with ICE officers over the course of their careers, involving them in a broader range of criminal travel facilitation investigations, may be a useful substitute or supplement to having visa officers become expert in these older databases.

## **Conclusion**

To conclude, the visa process is central to counterterrorism, to crime control, and to immigration management, including the facilitation of legitimate travel fundamental to our commitment to freedom and to our economic well being.

Until visa offices and other border control points are seen as central contributors to counterterrorism – at least as important as the FBI, the intelligence community, and the military – their opportunities to combat terrorism will not be maximized.

Visa offices need to become hybrid hubs for counterterrorism, crime control, and immigration and immigration fraud expertise. To achieve this goal more personnel, greater specialization, new technology tools, and cross-training and cross-service among relevant agencies are required.

The work of this Subcommittee – highlighted today by analysis of the GAO Report you commissioned – continues to be a source of innovation and excellence as demonstrated by the hearing today.